



**Testimony of the Michigan Campaign Finance Network on Senate Bill 661  
House Elections and Ethics Committee, December 3, 2013**

Chairwoman Lyons and Members of the Committee:

Senate Bill 661, as it passed the Senate, would make a modest improvement in the timeliness of campaign finance reporting by officeholders and other state and local candidates in years when those persons will not be on the ballot. That provision in Section 33(1)(C) would be even more beneficial if it required an April report in off years, in addition to the prescribed reports in July and October.

The proposed amendment to the definition of a campaign Expenditure in Section 6(2)(J) is a malevolent attempt to codify the freedom to launder money into state campaigns. That definitional change would write into statute a defective interpretation of campaign spending that has caused Michigan to become a national disgrace in campaign finance disclosure. It is absolutely clear that the revised definition was devised as an attempt to block a prospective administrative rule proposed by Secretary of State Ruth Johnson that could correct much of what is wrong about campaign finance disclosure in Michigan. The proposed amendment uses the "magic words" of express advocacy from *Buckley v. Valeo* (1976), and it is an absurdly impractical standard for contemporary campaigns. In *McConnell v. Federal Election Commission* (2003), the Supreme Court of the United States said "...*Buckley's* magic words requirement is functionally meaningless." The current statutory definition of an expenditure, which encompasses campaign messages that include inferences of support or opposition to a candidate, should be left as it is, so the Secretary of State's proposed administrative rule can be developed optimally.

As an example of the harm caused by adherence to the Department of State's April 20, 2004 interpretation that requires the presence of *Buckley's* magic words, I have included a summary of campaign spending in Michigan Supreme Court campaigns from 2000 through 2012. During that period, the majority of spending has not been disclosed through the State reporting system. In 2012, Michigan had the most expensive and least transparent supreme court campaign in the nation. Campaign spending of \$5 million was disclosed. Spending of \$14 million for candidate-focused television ads about the suitability of the candidates to hold office - mainly purchased by the political parties - was not. I collected records of that spending from the public files of state broadcasters and cable systems.

Unreported television advertising about candidates' suitability to hold office is not limited to judicial campaigns. I have included a Dashboard of Campaign Accountability from Michigan's 2010 election cycle that shows huge disclosure deficiencies in nearly all major statewide campaigns that year. Details behind the dashboard are presented in the Michigan Campaign Finance Network publication, "\$70 Million Hidden in Plain View."

Does thoroughgoing campaign finance disclosure compromise First Amendment rights? The Supreme Court of the United States answered that question with a resounding 8-1 vote in Part IV of *Citizens United v. Federal Election Commission* (2010):

"[t]he First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages."

Those who invoke *NAACP v. Alabama* (1958) to suggest that campaign finance disclosure threatens freedom of association are dissembling. There is no equivalence between the NAACP's need to protect the confidentiality of its membership when civil rights workers were being lynched and an anonymous campaign spender's fear of commercial backlash or public scorn. As Justice Antonin Scalia has said, "Requiring people to stand up in public for their political acts fosters civic courage, without which democracy is doomed."

I also testify in opposition to the proposed doubling of contribution limits for state and local candidates in SB 661. The simple truth is that 99.99 percent of Michiganders do not encounter current contribution limits. The one percent of one percent of Michiganders who do encounter current contribution limits already has more leverage in political and policy processes than the 99.99 percent, and they do not need to have their comparative advantage increased.

In the 2010 gubernatorial campaign, 820 resident donors gave the maximum contribution to the candidates. More than 99.99 percent of Michiganders could have given more to the candidate of their choice, if they had chosen to do so.

As a representative sample of the Michigan House, the members of this committee received maximum contributions from 81 of your constituents. For all but one of you, 99.99 percent of those you represent could have given more under current contribution limits, if they had chosen. The only exception was Rep. Cotter, who had exceptionally broad support from constituents making maximum contributions. But still, 99.95 percent of Rep. Cotter's constituents could have given more, if they had chosen. Current contribution limits are truly a case of 'what isn't broken doesn't need to be fixed.'

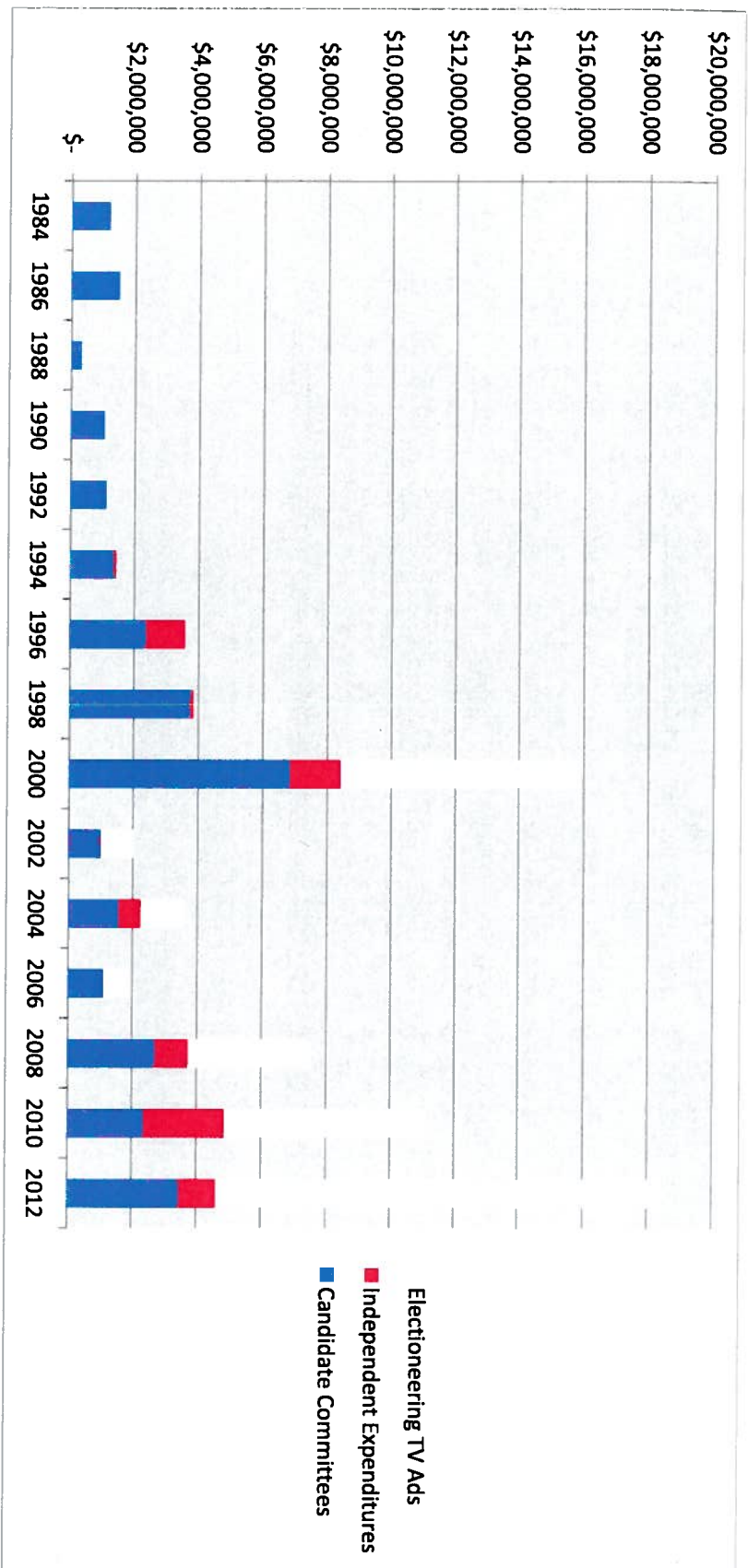
I thank you for the opportunity to testify on SB 661. The bill has very serious deficiencies that need to be corrected. I hope you will do so.

Sincerely,

A handwritten signature in black ink, appearing to read "Rich Robinson", with a stylized, flowing script.

Richard L. Robinson  
Executive Director

# Michigan Supreme Court Campaign Spending 1984-2012



Michigan Supreme Court Campaign Finance Summary, 1984 - 2012

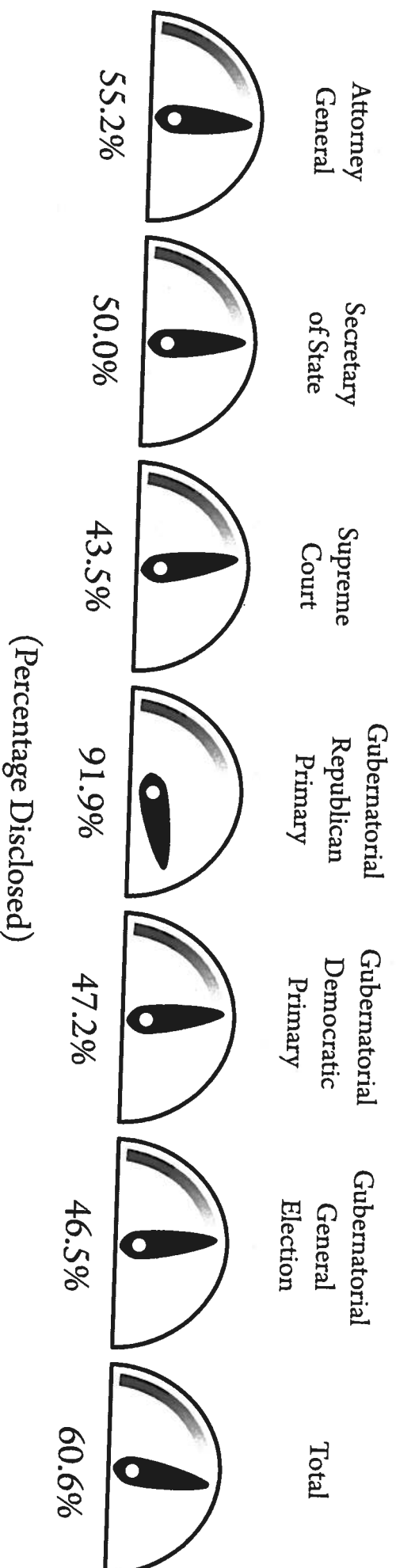
	1984	1986	1988	1990	1992	1994	1996	1998	1984-1998
Candidate Committees	\$ 1,181,321	\$ 1,462,306	\$ 295,076	\$ 1,025,046	\$ 1,091,924	\$ 1,353,115	\$ 2,354,106	\$ 3,732,621	\$ 12,495,515
Independent Expenditures	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 50,667	\$ 1,193,232	\$ 76,960	\$ 1,320,859
Electioneering TV Ads	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Spending	\$ 1,181,321	\$ 1,473,650	\$ 295,076	\$ 1,025,046	\$ 1,091,924	\$ 1,403,782	\$ 3,547,338	\$ 3,809,581	\$ 13,827,718
Number of Seats	3	2	2	2	2	2	2	3	18
Spending per Seat	\$ 393,774	\$ 736,825	\$ 147,538	\$ 512,523	\$ 545,962	\$ 701,891	\$ 1,773,669	\$ 1,269,860	\$ 768,207

	2000	2002	2004	2006	2008	2010	2012	2000-2012
Candidate Committees	\$ 6,824,311	\$ 964,342	\$ 1,544,278	\$ 1,087,344	\$ 2,690,495	\$ 2,603,090	\$ 3,442,367	\$ 19,156,227
Independent Expenditures	\$ 1,587,829	\$ 27,408	\$ 694,700	\$ 5,223	\$ 1,012,000	\$ 2,485,885	\$ 1,617,882	\$ 7,430,927
Electioneering TV Ads	\$ 7,500,000	\$ 1,020,000	\$ 1,377,000	\$ 844,500	\$ 3,804,000	\$ 6,295,000	\$ 13,847,619	\$ 34,688,119
Total Spending	\$ 15,912,140	\$ 2,011,750	\$ 3,615,978	\$ 1,937,067	\$ 7,506,495	\$ 11,383,975	\$ 18,907,868	\$ 61,275,273
Number of Seats	3	2	2	2	1	2	3	15
Spending per Seat	\$ 5,304,047	\$ 1,005,875	\$ 1,807,989	\$ 968,534	\$ 7,506,495	\$ 5,691,988	\$ 6,302,623	\$ 4,085,018
Percentage Disclosed	52.9%	49.3%	61.9%	56.4%	49.3%	44.7%	26.8%	43.4%

Sources:

Candidate Committees and Independent Expenditures: Michigan Department of State campaign finance records  
 Electioneering TV Ads: MCFN TV study/Public files of Michigan broadcasters and cable systems

# Dashboard of Campaign Finance Accountability, 2010





House Elections and Ethics Committee  
Maximum Donors, 2012

**Rep. Lyons - Maximum Donors, 2012**

	REALTORS PAC OF MICHIGAN	LANSING	MI	5000
EMILY	BREW	EAST GRAND RAPIDS	MI	500
SCOTT	BREW	E GRAND RAPIDS	MI	500
DAN	BYRNE	LOWELL	MI	500
TRACY	BYRNE	LOWELL	MI	500
HELEN	CHRISTOFF	CAPE CORAL	FL	500
WENDELL L	CHRISTOFF	GRAND RAPIDS	MI	500
DAVID	DAVIS	CINCINNATI	OH	500
JARED	DAVIS	CINCINNATI	OH	500
DOUGLAS	DEVOS	GRAND RAPIDS	MI	500
DAVID	FREY	GRAND RAPIDS	MI	500
JUDY	FREY	GRAND RAPIDS	MI	500
JC	HUIZENGA	GRAND RAPIDS	MI	500
DAVID	MEHNEY	E GRAND RAPIDS	MI	500
LINDA	MEHNEY	GRAND RAPIDS	MI	500
CHARLES	RIEGLE	MADISON	CT	500
CHARLES	SECCHIA	GRAND RAPIDS	MI	500
ELIZABETH	SECCHIA	GRAND RAPIDS	MI	500
JOAN	SECCHIA	GRAND RAPIDS	MI	500
PETER	SECCHIA	GRAND RAPIDS	MI	500
JAMES	SHEA	LAKE ANGELUS	MI	500
CRAIG	TIGGLEMEN	GRAND RAPIDS	MI	500
CAROL	VAN ANDEL	GRAND RAPIDS	MI	500
DAVID	VAN ANDEL	GRAND RAPIDS	MI	500
AMANDA	WILLIAMS	ADA	MI	500
JAMES C	WILLIAMS	ADA	MI	500

**Rep. Callton - Maximum Donors, 2012**

	BLUE CROSS BLUE SHEILD PAC	LANSING	MI	5000
	MICH ASSN CHIROPRACTORS PAC	LANSING	MI	5000
AMANDA	APFELBLAT	WEST BLOOMFIELD	MI	500
JEFFREY	CATES	FERNDAL	MI	500
ERICA	COULSTON	BLOOMFIELD	MI	500
DOUG	DECAMP	HASTINGS	MI	500
STEPHANIE	GUZAK	WARREN	MI	500
CANDICE	MILLER	SHELBY TOWNSHIP	MI	500
FRED	NADER	BLOOMFIELD TOWNSHIP	MI	500
RITA	NADER	BLOOMFIELD TOWNSHIP	MI	500
BERNARD	PELC	LYONS	MI	500
JOSEPH	RICHERT	NEW BOSTON	MI	500
RICK	RISK	LAKE ODESSA	MI	500
JIM	SHEA	LAKE ANGELUS	MI	500
WILLIAM	WALKER	LAKE ODESSA	MI	500

Resident donors highlighted in gray

House Elections and Ethics Committee  
Maximum Donors, 2012

**Rep. Cotter - Maximum Donors, 2012**

RICHARD	BARZ	MT. PLEASANT	MI	500
DENISE	BEAN	ROSEBUSH	MI	500
JEFFERY	BEAN	ROSEBUSH	MI	500
LEE	BEAN	ROSEBUSH	MI	500
TODD	BEAN	MT. PLEASANT	MI	500
DANIEL	BOGE	WEIDMAN	MI	500
CAROL	CHURCHILL	HARRISON	MI	500
JANICE	COTTER	MT. PLEASANT	MI	500
ROBERT	COTTER	MT. PLEASANT	MI	500
DAVID	COYNE	MT. PLEASANT	MI	500
LINDA	COYNE	MT. PLEASANT	MI	500
CHARLES	CRESPI	MT PLEASANT	MI	500
MATT	DAVIS	MIDLAND	MI	500
BETSY	DEVOS	GRAND RAPIDS	MI	500
DANIEL	DEVOS	GRAND RAPIDS	MI	500
DICK	DEVOS	GRAND RAPIDS	MI	500
DOUG	DEVOS	GRAND RAPIDS	MI	500
HELEN	DEVOS	GRAND RAPIDS	MI	500
MARIA	DEVOS	GRAND RAPIDS	MI	500
PAMELLA	DEVOS	GRAND RAPIDS	MI	500
RICHARD	DEVOS	GRAND RAPIDS	MI	500
CHERI	DEVOS VANDERWEIDE	GRAND RAPIDS	MI	500
AMY	DRUMM	LANSING	MI	500
EVANGELINE	FABIANO	HARBOR SPRINGS	MI	500
JAMES	FABIANO	HARBOR SPRINGS	MI	500
RONALD	FARRELL	BLANCHARD	MI	500
JIM	FISHER	MIDLAND	MI	500
RJ (BUD)	FISHER JR.	MT PLEASANT	MI	500
DAVID	GILLESPIE	MT. PLEASANT	MI	500
ELIZABETH	GILLESPIE	MT. PLEASANT	MI	500
GREG	GILLESPIE	MT. PLEASANT	MI	500
JOANNE	GOLDEN	MT. PLEASANT	MI	500
MATTHEW	GOLDEN	MT. PLEASANT	MI	500
RANDY	GOLDEN	MT. PLEASANT	MI	500
DON	HARTER	WEIDMAN	MI	500
WILLIAM	HAUCK	MT. PLEASANT	MI	200
CHERYL	HUNTER	MT. PLEASANT	MI	500
DAVID	HUNTER	MT. PLEASANT	MI	500
VANCE	JOHNSON	MT. PLEASANT	MI	500
AL	KLOHA	SANFORD	MI	500
MICHAEL	KOSTRZEWA	MT. PLEASANT	MI	500
TERRY	KUNST	MT. PLEASANT	MI	500
BART	LABELLE	MT. PLEASANT	MI	500
DOUG	LABELLE	MT. PLEASANT	MI	500
MARK	LABONVILLE	SANFORD	MI	500
KENNETH	MACDONALD	MT. PLEASANT	MI	500

Resident donors highlighted in gray



House Elections and Ethics Committee  
Maximum Donors, 2012

**Rep. Cotter - Maximum Donors, 2012 (cont'd)**

STEVEN	MARTINEAU	MT. PLEASANT	MI	500
MARK	MCDONALD	MT. PLEASANT	MI	500
NANCY	MCGUIRK	MT PLEASANT	MI	500
PAT	MCGUIRK	MT. PLEASANT	MI	500
GLADYS	MITCHELL	MT. PLEASANT	MI	500
DOUGLAS	MOORE	LAKE ISABELLA	MI	500
MICHAEL	MOREY	MT. PLEASANT	MI	500
PAUL	MURRAY	MT. PLEASANT	MI	500
JOSEPH	OLIVIERI	MT PLEASANT	MI	500
KEVIN	PARKER	MT PLEASANT	MI	500
HOWARD	REIHL	LAKE	MI	500
W. SIDNEY	SMITH	MT PLEASANT	MI	500
JAMES	STARK	MT. PLEASANT	MI	500
WILLIAM	STAVROPOULOS	NAPLES	FL	500
NORM	STEPHENSON	MIDLAND	MI	500
WILLIAM	STRICKLER	MT PLEASANT	MI	500
CHRISTINE	TOCCO	GRAND RAPIDS	MI	500
JERRY	TRUDELL	BRUTUS	MI	500
STEVEN	TUTTLE	SANFORD	MI	500
KYLE	WHITE	MT PLEASANT	MI	500
CAROL	WILLIAMS	MIDLAND	MI	500
HERB	WYBENGA	MT. PLEASANT	MI	500

**Rep. Haugh - Maximum Donors, 2012**

	MI. BEER & WINE WHOLESALERS	LANSING	MI	5000
PAUL	CONDINO	SOUTHFIELD	MI	500
DAVID	CROSKEY	BLOOMFIELD HILLS	MI	500
SEAN D.	GEHLE	LANSING	MI	500
THOMAS	HOISINGTON	LANSING	MI	500
JOE	LENTINE	WARREN	MI	500
MATTHEW J	MOROUN	WARREN	MI	500
ROY	ROSE	SHELBY TWSP	MI	500
ANNA	STAJOS	LANSING	MI	200

**Rep. Heise - Maximum Donors, 2012**

JOHN	CARLO	NORTHVILLE	MI	500
MICHAEL	CARLO	NORTHVILLE	MI	500
JOHN S.	CAUFFIEL	LAUDERDALE BY THE SE	FL	500
DAVID E.	CHRISTENSEN	ANN ARBOR	MI	500
MICHAEL	FERRANTINO	WAYNE	MI	500
MILTON H.	GREENMAN	WEST BLOOMFIELD	MI	500
DAVID	HARON	FARMINGTON HILLS	MI	500
PAMELA	HARON	FARMINGTON HILLS	MI	500
BERNARD L.	HARTMAN	SOUTHFIELD	MI	500
CLARA	HEISE	PETOSKEY	MI	500
VINCE	IVEZAJ	NORTHVILLE	MI	500

Resident donors highlighted in gray

House Elections and Ethics Committee  
Maximum Donors, 2012

**Rep. Heise - Maximum Donors, 2012 (cont'd)**

JESSE	REITER	BIRMINGHAM	MI	500
SUSAN N.	REITER	BIRMINGHAM	MI	500
C. PETER	THEUT	ANN ARBOR	MI	500
GERALD E.	THURSWELL	SOUTHFIELD	MI	500
JUDITH	THURSWELL	SOUTHFIELD	MI	500
BETTY J.	TUCKER	BRIGHTON	MI	500
NORMAN D.	TUCKER	BRIGHTON	MI	500
HERBERT	TYNER	SOUTHFIELD	MI	500
NORMAN M.	WEAST	PLYMOUTH	MI	500
JENNA	WRIGHT	WEST BLOOMFIELD	MI	500

**Rep. Lane - Maximum Donors, 2012**

	UAW MICHIGAN V-PAC	DETROIT	MI	5000
ANGELO	D'ALESSANDRO	SHELBY TWP	MI	500
ANTONIO	D'ALESSANDRO	BOCA RATON	FL	500
CHRISTINA	D'ALESSANDRO	CLINTON TWP	MI	500
GARY	D'ALESSANDRO	CLINTON TOWNSHIP	MI	500
GUISEPPE	D'ALESSANDRO	BOCA RATON	FL	500
OLINDO	D'ALESSANDRO	CLINTON TWP	MI	500
QUIRINO	D'ALESSANDRO	DEERFIELD BEACH	FL	500
ROSE	D'ALESSANDRO	BOCA RATON	FL	500
LESA	EICKHOLDT	NORTHVILLE	MI	500
JEFFREY	GARTIN	MACOMB	MI	500
RICK	GARTIN	FRASER	MI	500
DAN	HABUDA	MACOMB	MI	500
PATRYK	JARZAB	WASHINGTON	MI	500
DIANNA	KIHN	MACOMB	MI	500
LUDWIK	LABAJ	ROMEO	MI	500
THOMAS	MOORE	WASHINGTON	MI	500
MATTHEW	MOROUN	GROSSE POINTE FARMS	MI	500
BRIAN	NOWICKI	CLINTON TWP	MI	500
CARL	PAINE	WESTLAND	MI	500
KEVIN	PAWLOWSKI	BOCA RATON	FL	500
DENNIS	PLETZKE	BRIGHTON	MI	500
BERNARD	POMANTE	GROSSE POINTE PARK	MI	500
HANK	RIBERAS	STERLING HEIGHTS	MI	500
GARY	RONCELLI	ARMADA TWP	MI	500
BARBARA	ROSSMAN	SHELBY TOWNSHIP	MI	500
ALPHONSE	SANTINO	ST CLAIR SHORES	MI	500
WILLIAM	SCHAUFLER	BIRMINGHAM	MI	500
DIANA	SHELBY	ROCHESTER HILLS	MI	500
PAUL	TORRES	CLINTON TOWNSHIP	MI	500
ROSE	TORRES	CLINTON TWP	MI	500

Resident donors highlighted in gray

House Elections and Ethics Committee  
Maximum Donors, 2012

**Rep. Outman - Maximum Donors, 2012**

	BOLGER RESTORE MICHIGAN FUND	MARSHALL	MI	5000
	CALLTON ACTION FUND	NASHVILLE	MI	5000
	DTE ENERBY CO PAC	DETROIT	MI	5000
	HAVEMAN HOUSE FUND	ZEELAND	MI	5000
	MICHIGAN CHAMBER PAC	LANSING	MI	5000
	MONTCALM COUNTY REPUBLICANS	GREENVILLE	MI	5000
	ONE TOUGH NERD PAC	LANSING	MI	5000
	STAMAS LEADERSHIP PAC	LANSING	MI	5000
BILL	BORGIEL	LEONARD	MI	500
GAIL	BORGIEL	LEONARD	MI	500
JARED	DAVIS	CINCINNATI	OH	500
JERRY	EMMONS	SHERIDAN	MI	500
DANIEL	FARHAT	LANSING	MI	500
BOB	GILMAN	SIX LAKES	MI	500
DAVID	NICHOLS	ALMA	MI	500
MARILYN	NICHOLS	ALMA	MI	500
DAUN	OUTMAN	CHURBUSCO	IN	500
GERRY	OUTMAN	CHURBUSCO	IN	500
JAMES	SHEA	LAKE ANGELUS	MI	500

**Rep. Schor - Maximum Donors, 2012**

THOMAS J.	BUCHOLZ	GRAND LEDGE	MI	500
SUZANNE	CAREY	MOUNT PLEASANT	MI	500
T. MICHAEL	CAREY	MT. PLEASANT	MI	500
JENNA	CHABOT	EAST LANSING	MI	500
PAUL	CONDINO	SOUTHFIELD	MI	500
JARED	DAVIS	CINCINNATI	OH	500
MICHAEL	FREDERICK	LANSING	MI	500
JASON	LICHTMAN	NEW YORK	NY	500
CYNTHIA	LOCKINGTON	LANSING	MI	500
ROGER	MARTIN	MASON	MI	500
JAMES	MCCLURKEN	LANSING	MI	500
KEVIN	MCKINNEY	LANSING	MI	500
THOMAS	MORGAN	LANSING	MI	500
KIM	ROSS	DEWITT	MI	500
IRWIN	SCHOR	LAKE WORTH	FL	500
LINDA	SCHOR	LAKE WORTH	FL	500
TINA	WEATHERWAX-GRANT	OKEMOS	MI	500

**Rep. Yonker - Maximum Donors, 2012**

RANDY	DISSELKOEN	ROCKFORD	MI	500
JENNIFER	HAWORTH	HOLLAND	MI	500
MATTHEW	HAWORTH	HOLLAND	MI	500
DANIEL	HIBMA	WYOMING	MI	500
TERRI LYNN	LAND	BYRON CENTER	MI	500
DAVID	NEMMERS	CALEDONIA	MI	500

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House Elections and Ethics Committee  
Maximum Donors, 2012

**Rep. Yonker - Maximum Donors, 2012 (cont'd)**

SUSAN	NEWHOF	CALEDONIA	MI	500
TOM	NOBEL	GRAND RAPIDS	MI	500
MELISSA	OSTERHAVEN	CALEDONIA	MI	500
PETER	SECCHIA	GRAND RAPIDS	MI	500
RICHARD	STEIGENGA	BYRON CENTER	MI	500
HAROLD	VOORHEES	GRANDVILLE	MI	500

Resident donors highlighted in gray

# **\$70 Million**

## **Hidden in Plain View**

**Michigan's Spectacular Failure of Campaign Finance Disclosure, 2000-2010**





The Michigan Campaign Finance Network is a nonprofit, nonpartisan organization that conducts research and provides public education on money in Michigan politics.

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# \$70 Million Hidden in Plain View

Michigan's Spectacular Failure of Campaign Finance Disclosure, 2000-2010

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# Research Methodology

## Estimating the Known Unknowns

The campaign television advertisements that are not disclosed in the State's campaign finance reporting system are commonly described as candidate-focused "issue" advertisements. These ads carefully avoid the language of express advocacy, as it is defined in the 1976 U.S. Supreme Court case of *Buckley v. Valeo*<sup>1</sup>. In federal campaigns, such advertisements are described as electioneering communications.

In general, records of candidate-focused issue advertisements are found in the public files of the state's broadcasters and cable systems. The Michigan Campaign Finance Network has collected records of candidate-focused issue advertisements from broadcasters' public files since the 2000 election cycle. Prior to the passage of the federal Bipartisan Campaign Reform Act of 2002 (BCRA), popularly known as the McCain-Feingold reforms, some broadcasters withheld sales records for their issue advertisements. During that period, values of sales at non-reporting stations were derived from estimates published by the Campaign Media Analysis Group (CMAG). CMAG's estimates were constructed from an application of the stations' advertising rate cards to spot-frequency records collected by satellite.

Subsequent to the passage of BCRA, state broadcasters and cable systems adopted the practice of keeping all records of issue advertisements in their public files, along with those of reported independent expenditures and the candidates' own

advertisements. That practice was uninterrupted until the 2010 election cycle.

In the fall of 2010, the Target Enterprises advertising agency, acting on behalf of the Republican Governors Association, requested selected corporate owners of Michigan broadcast licenses to withhold records of its issue ads in support of now-Gov. Rick Snyder. Several broadcasters complied, citing the fact that Federal Communications Commission (FCC) regulations require public access to records on matters of national importance (reference to federal candidates), but they are silent on matters of state concern (featuring state candidates). For those stations that complied with Target's request for secrecy, MCFN assigned values based on market-share estimates developed over a decade of data collection.

The complexity of determining what was spent on behalf of whom varies with the election year. Presidential election years are the simplest because the only non-federal candidates for statewide office are candidates for the Michigan Supreme Court. As a result, records from 2004 and 2008 are very precise.

There were much greater complexities in 2002 and 2010, when issue advertisers, mainly the political parties, were juggling multiple statewide campaigns. Unraveling what amounts were spent on which candidates in those years was accomplished by connecting the

candidates to the agencies that produced advertising about them. This was only a minor issue in 2006, when there were heavily favored incumbents running for attorney general, secretary of state and justice of the Supreme Court, and the gubernatorial campaign was absorbing the vast majority of issue-advertising dollars.

It should be noted that the amounts spent for television issue advertisements are a conservative representation of unreported political spending. There are also radio issue advertisements, but there are too many radio broadcasters for MCFN to collect their data. There are unreported direct mail advertisements, but the U.S. Postal Service will not disclose its sales records unless there is a case of mail fraud.

The activity of the Michigan Republican Party in 2010 illustrates the challenge of capturing all unreported spending. A widely circulated nugget of conventional wisdom in Lansing had it that the Michigan Republican Party raised \$28 million in the 2010 cycle<sup>2</sup>. Yet, the Michigan Republican Party reported only \$9 million to the Federal Election Commission and \$9.3 million more to the Michigan Department of State. MCFN found \$2.8 million worth of Republican Party Supreme Court issue ads and \$2.2 million more in the secretary of state and attorney general campaigns, none of which was reported, but that still leaves \$4.7 million more for which there is no accounting.



# The Absence of Accountability

On one level, an observer might conclude that campaign finance disclosure is an important value in Michigan politics. After all, candidates for state office must identify every donor who makes a contribution to their campaign, even if the contribution is only one dollar. In contrast, contributors to federal campaigns are not identified unless their financial support is at least \$200.

That impression of commitment to campaign finance accountability would be misguided. Beginning with the 2000 Michigan Supreme Court election campaign, interest groups and individuals have spent almost \$70 million for campaign television advertisements that were not disclosed in the State's campaign finance reporting system. If you recall any political advertisements from the

past decade that sought to define a state candidate's character, qualifications or suitability for office, chances are good that the ads you remember are among those that were never reported.

How can that be? The Michigan Department of State doesn't recognize political advertisements as campaign expenditures unless they explicitly direct a viewer how to vote. If there are no 'magic words' of express advocacy, such as "vote for," "vote against," "support," or "defeat," the Department of State sees an advertisement as merely educational, and its sponsors have no obligation to report whose money paid for the message.

This willful state of ignorance is based on an interpretation of the Michigan

Campaign Finance Act that ignores the language of the statute and critical U.S. Supreme Court campaign finance jurisprudence. It is an affront to the citizens of Michigan who have multiple interests in knowing who pays for political campaigns. This interpretation is the reason that \$70 million has been able to go missing in plain view.

The first step in correcting this disgraceful situation is to thoroughly understand it. This report, which is the product of ten years of research, is an effort to nurture an understanding of the pathology of campaign finance secrecy that urgently needs to be cured.

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## Interests in Conflict

The interest groups and elite individuals who provide the majority of money that drives state election campaigns are rational economic actors. Their financial support is an investment, and it is naïve to believe that such investments are made for selfless reasons. Returns on political investment may take the form of a workplace regulation, an environmental deregulation, a no-bid contract, a tax credit, a budget priority, a tax not levied, a public works project or a favorable court decision. The returns on political investment vary. The pursuit of them is consistent.

At this point in history, most citizens still object to a direct political *quid pro quo*. Neither a campaign supporter nor an elected official can afford to be seen as a party to the simple buying and selling of public policy. That is why we have limits on contributions to candidates for public office. Contribution limits are meant to be a way of curbing corruption. But when

interest groups want to provide more campaign support than the law allows, or society accepts as benign, secrecy provides a path that does not damage the public standing of the campaign supporter or the object of that support.

Most citizens' interests are not served by campaign finance secrecy. Citizens have a recognized interest in knowing the sources of campaign finance support, so they can properly evaluate a candidate and cast an informed vote.

Citizens' stake in campaign transparency also includes an interest in limiting the opportunity for corrupt conduct. As Justice Louis Brandeis said, "Sunshine is the best disinfectant."<sup>3</sup>

Finally, citizens have a due process interest that is served by campaign transparency. The 2009 U.S. Supreme Court case of *Caperton v. Massey Coal Company*

established that extraordinary campaign spending in support of a judicial candidate by a party to a case that will be heard by that judge introduces a probability of bias that requires the judge to recuse himself from hearing his supporter's case.<sup>4</sup> This interest is particularly relevant for Michiganians.

In summary, interest groups and the individuals who have the financial wherewithal to steer election outcomes and, subsequently, the course of public policy, frequently find their interests served by the absence of campaign accountability. The public interest is always served by campaign transparency. In the middle sit the officeholders, dependent on both interest groups and voters. In the absence of pressure from citizens for transparency, the officeholders' inaction on campaign disclosure serves the cause of the interest groups at the expense of the public interest.

# Michigan Supreme Court Campaigns, 2000-2010:

## The Invisible Hand in Judicial Campaigns

The trajectory of Michigan Supreme Court campaigns has evolved over the last quarter-century from low key, low-dollar contests, to highly financed, coarse-toned, highly secretive contests. The Michigan Supreme Court campaign in 2000 represented a point of radical change.

The data in Table 1 show a pre-modern era, prior to the 2000 campaign, when the candidate committees did 90 percent of the campaign spending, virtually all spending was disclosed, and the average spent per seat by all parties was less than \$770,000. Review of the individual campaign years' summaries that are shown in Appendix A of this report shows that candidates with greater financial backing won 10 of 18 contests in the pre-modern era, a success rate of 56 percent for the better-funded candidates.

In the modern era, beginning with the 2000 campaign, the nature of campaign finances has been dramatically different.

For the period from 2000 through 2010, the candidate committees accounted for just 37 percent of overall campaign spending. Just 50.5 percent of all spending was reported in the State's disclosure system. And the candidates with greater financial backing won 11 of 12 races, a success rate of 92 percent. In the modern era, average spending per seat topped \$3.5 million.

Some elements of the modern era of Michigan Supreme Court campaigns:

- The 2000 campaign featured six major party candidates collectively raising \$6.8 million. Reported independent expenditures totaled \$1.5 million. Unreported issue advertising sponsored by the Michigan Democratic Party, the Michigan Chamber of Commerce and the Michigan Republican Party totaled \$7.5 million.
- In 2002, the candidates raised a combined total of \$964,000 and

reported independent expenditures totaled \$27,000. The only television issue ad buyer that year, the Michigan Chamber of Commerce, outspent the field of candidates with \$1 million in unreported ads.

- In 2004, the candidates raised \$1.5 million. Reported independent expenditures totaled just less than \$700,000, including \$440,000 spent by Geoffrey Fieger to attack incumbent Justice Stephen Markman in a flight of advertisements that were attributed until months after the election to a phony committee called Citizens for Judicial Reform.<sup>5</sup> The Michigan Chamber of Commerce, again, was the only issue advertiser with \$1.4 million in ads.
- In 2006, the candidates raised \$1.1 million, reported independent expenditures totaled \$5,000 and the Michigan Chamber of Commerce was the only issue advertiser, spending \$844,000.

Table 1.

### Michigan Supreme Court

#### Pre-Modern Era

								Total
1984	1986	1988	1990	1992	1994	1996	1998	1984-1998
\$1,181,321	\$1,462,306	\$295,076	\$1,025,046	\$1,091,924	\$1,353,115	\$2,354,106	\$3,732,621	\$12,495,515
\$ -	\$ -	\$ -	\$ -	\$ -	\$50,667	\$1,193,232	\$76,960	\$1,320,859
\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
\$1,181,321	\$1,473,650	\$295,076	\$1,025,046	\$1,091,924	\$1,403,782	\$3,547,338	\$3,809,581	\$13,827,718
3	2	2	2	2	2	2	3	18
\$393,774	\$736,825	\$147,538	\$512,523	\$545,962	\$701,891	\$1,773,669	\$1,269,860	\$768,207

Source: Candidate Committees and Independent Expenditures: Michigan Department of State campaign finance records  
Electioneering TV Ads: MCFN TV study/Public files of Michigan broadcasters and cable systems

- The 2008 campaign was the only time in the modern era when a candidate with greater financial backing did not win: Then-Third Circuit Court Judge Diane Hathaway defeated incumbent Chief Justice Clifford Taylor. Taylor raised more in his campaign account than Hathaway, \$1.9 million to \$750,000. Reported independent expenditures narrowly favored Hathaway, \$522,000 to \$491,000. Issue advertising by the Michigan Republican Party and the Michigan Chamber of Commerce totaled \$2.4 million, compared to \$1.4 million by the Michigan Democratic Party. Unreported spending was greater than that which was reported, \$3.8 million to \$3.7 million.
- The 2010 campaign represented a culmination of a sort in the television-dominated modern era of Michigan Supreme Court campaigns: Third Circuit Judge Mary Beth Kelly was the top vote-getter in 2010, and she was

the only major party nominee who did not buy television advertising with her own campaign account. The Michigan Republican Party spent \$3.4 million for television advertisements supporting Kelly and her fellow Republican nominee, Justice Robert Young, and reported only \$650,000 of that amount. Judge Kelly's campaign committee reported raising just \$411,000. The Michigan Republican Party and Michigan Association of Realtors reported independent expenditures of \$2.4 million supporting Kelly and Young, compared to \$183,000 reported by the Michigan Democratic Party. The Democratic Party spent \$2.4 million for unreported attack issue ads directed at Kelly and Young. Overall, unreported spending topped that which was reported, \$6.2 million to \$5.2 million.

The secrecy of campaign finances in the modern era of Supreme Court campaigns

matters because it runs contrary to citizens' interests in being able to evaluate candidates in light of their financial supporters. But that interest exists for all elections. What is unique about Supreme Court elections is the citizens' interest in due process of law. In *Caperton v. Massey Coal Company*, the United States Supreme Court ruled that extraordinary campaign spending in support of a judicial candidate by a party whose litigation will come before the judge he has supported introduces a probability of bias that requires the judge to recuse himself from his campaign supporter's litigation. But how can a party to a case where due process has been compromised by extraordinary spending even know to ask a justice to recuse if the spending is unreported? The *Caperton* case illustrates that this is no mere theoretical problem. Campaign spenders are rational economic actors, and no one has greater reason to provide extraordinary support to a justice's campaign than a party to a high-stakes case in the appeals pipeline.<sup>6</sup>

## Campaign Finance Summary, 1984-2010

### Modern Era

	2000	2002	2004	2006	2008	2010	Total 2000-2010
Candidate Committees	\$6,824,311	\$964,342	\$1,544,278	\$1,087,344	\$2,690,495	\$2,351,329	\$15,462,099
Independent Expenditures	\$1,587,829	\$27,408	\$694,700	\$5,223	\$1,012,000	\$2,485,885	\$5,813,045
Electioneering TV Ads	\$7,500,000	\$1,020,000	\$1,377,000	\$844,500	\$3,804,000	\$6,295,000	\$20,840,500
Total Spending	\$15,912,140	\$2,011,750	\$3,615,978	\$1,937,067	\$7,506,495	\$11,132,214	\$42,115,644
Number of Seats	3	2	2	2	1	2	12
Spending per Seat	\$5,304,047	\$1,005,875	\$1,807,989	\$968,534	\$7,506,495	\$5,566,107	\$3,509,637
Percent Disclosed	52.9%	49.3%	61.9%	56.4%	49.3%	43.5%	50.5%

The gross failure of campaign disclosure in Michigan Supreme Court campaigns creates a toxic cloud that shadows the court's presumed impartiality. More than anywhere else in Michigan politics,

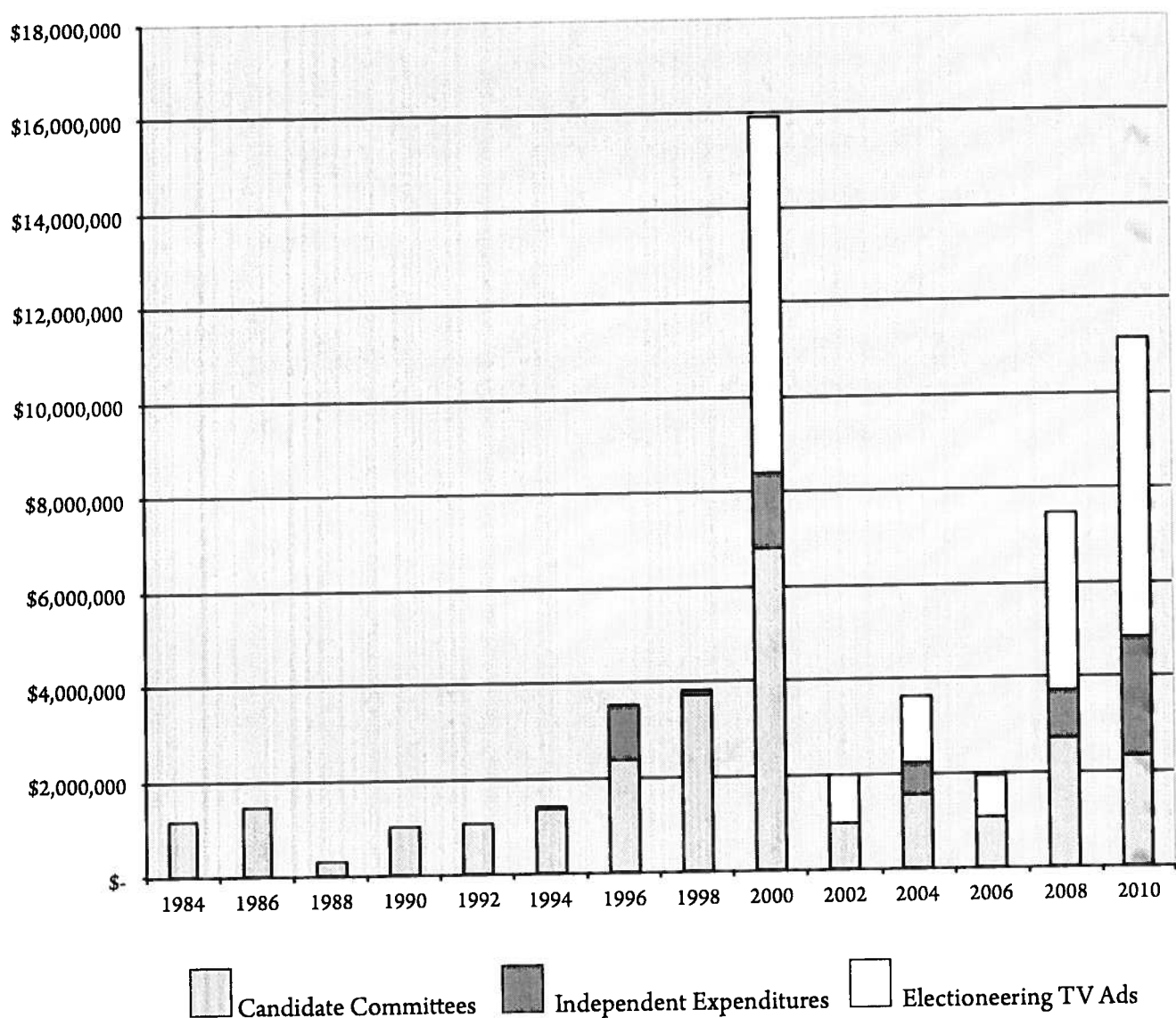
campaign transparency is urgently needed in Supreme Court campaigns.

Figure 1 provides a graphical illustration of how campaign finances have changed

in Michigan Supreme Court campaigns from the pre-modern era, 1984-1998, to the modern era, 2000-2010.

Figure 1.

### Michigan Supreme Court Campaign Finance Summary, 1984 - 2010



# Michigan Gubernatorial Campaigns, 2002-2010: \$42 Million Off the Books

Candidate-focused issue advertising first appeared in a Michigan gubernatorial campaign in the 2002 Democratic primary. The St. Clair County Democratic Party bought \$1.85 million in ads that sought to define former Gov. James Blanchard and then-Attorney General Jennifer Granholm as unsuitable alternatives to Congressman David Bonior. The ads carefully avoided any reference to voting, and the St. Clair County committee filed campaign finance reports that said that it had neither raised, nor spent, any money to support or oppose a candidate.

The data in Table 2 show that issue ads have been an important feature of every gubernatorial campaign since they were introduced. Overall, they have accounted for \$42.1 million of \$152.8 million spent, or 27.6 percent.

By election:

- In the 2002 general election, spending for undisclosed issue ads exceeded reported independent expenditures and candidate spending: \$9.8 million to \$8.7 million.
- In the 2006 cycle, when neither major party candidate had a primary challenger, issue advertising totaled \$18.3 million, including \$12.8 million spent by the Michigan Democratic Party.

- In the 2010 Democratic primary, the eventual nominee, Lansing Mayor Virg Bernero, won by 20 points without buying any television advertising from his campaign account. In action reminiscent of 2002, the Genesee County Democratic Party spent \$2 million touting Bernero and attacking his opponent, then-House Speaker Andy Dillon. Dillon had \$870,000 in issue ad support from groups called Northern Michigan Education Fund and Advance Michigan Now.
- In the 2010 Republican primary, there was \$1.2 million of undisclosed television issue advertising supporting then-Attorney General Mike Cox and opposing Mr. Cox's opponents, particularly Congressman Pete Hoekstra; and \$212,000 spent for unreported issue ads to attack Mr. Cox.
- In the 2010 general election, undisclosed television issue advertising exceeded reported independent expenditures and candidate spending, \$7.5 million to \$6.6 million. The Michigan Democratic Party spent \$4.3 million on behalf of Virg Bernero and the Republican Governors Association spent \$3.6 million on behalf of now-Gov. Rick Snyder.

As in all elections where there is a failure of campaign finance disclosure, the lack of transparency in recent Michigan gubernatorial campaigns deprives voters of an ability to evaluate candidates in light of who is providing their financial support. In addition, there is the unknown effect that unidentified campaign supporters have on an administration's policy agenda. In one of her final interviews before leaving office, former Gov. Jennifer Granholm told Michigan Public Radio, "It is utterly ridiculous that there is no disclosure of these third party donations to secret groups that are flooding the airwaves." She said the unreported spending "will have incredible sway on the political system, like it or not."

As the beneficiary of \$20 million worth of undisclosed advertising sponsored by the Michigan Democratic Party, Ms. Granholm's authority on this matter should not be questioned. She benefitted more from the invisible hand of unreported campaign spending than anyone in the history of Michigan politics.

Summaries of 2002, 2006 and 2010 gubernatorial campaigns are displayed in Appendix B of this report.

Table 2.

Michigan Gubernatorial Campaign Finance Summary, 2002 - 2010

	2002 Republican Primary	2002 Democratic Primary	2002 General	2006 Primaries & General	2010 Republican Primary	2010 Democratic Primary	2010 General Election	Total
Candidate Committees	\$3,038,811	\$11,520,242	\$4,717,849	\$57,653,709	\$15,504,951	\$2,593,108	\$6,556,423	\$101,585,093
Independent Expenditures	-	1,222,040	4,005,848	3,089,164	390,841	-	298,568	9,006,461
Electioneering TV Ads	-	1,850,000	9,800,000	18,330,000	1,403,000	2,900,000	7,900,000	42,183,000
Total	\$3,038,811	\$14,592,282	\$18,523,697	\$79,072,873	\$17,298,792	\$5,493,108	\$14,754,991	\$152,774,554
Percent Disclosed	100.0%	87.3%	47.1%	76.8%	91.9%	47.2%	46.5%	72.4%

Sources: MI Dept of State, MCFN analysis of broadcasters' public files

# Attorney General and Secretary of State Campaigns: \$5.9 Million that Made a Difference

Undisclosed issue advertising was an important factor in the 2002 attorney general campaign. The candidates, Democrat Gary Peters and Republican Mike Cox, had similar reported financial backing: \$1.1 million for Peters and \$1 million for Cox. The Michigan Democratic Party spent \$500,000 for issue ads in support of Peters' campaign but, arguably, it was an undisclosed \$485,000 ad blitz in the final days of the campaign by the Michigan Chamber of Commerce that boosted Cox to a 5,200-vote win out of three million votes cast.

The 2006 attorney general race was not close. Attorney General Mike Cox had almost three times as much campaign cash as his Democratic challenger, Amos Williams: \$1.9 million to \$700,000. The Michigan Chamber of Commerce spent

\$500,000 for television issue ads to assist Cox. Cox won that election by more than 10 percentage points.

The 2010 attorney general campaign was one that featured extravagant spending on issue ads, even though the eventual winner, Republican Bill Schuette, had a three-to-one fundraising advantage over his Democratic opponent, David Leyton. The candidates raised \$2.9 million, reported independent expenditures totaled \$209,000, and the political parties and two groups previously unknown in Michigan campaigns, Michigan Advocacy Trust and Law Enforcement Alliance of America, spent \$2.6 million for undisclosed issue ads.

The 2010 secretary of state campaign was another instance where a winning candidate, Republican Ruth Johnson,

won a television-driven campaign without buying any television advertising from her own campaign account. The Michigan Republican Party spent \$1.35 million for unreported issue ads attacking Johnson's Democratic opponent, Jocelyn Benson. Johnson's campaign account and reported independent expenditures totaled just \$755,000. Benson raised \$1.1 million in her campaign account and the Michigan Democratic Party spent \$465,000 for undisclosed issue ads attacking Johnson. Overall, half the money spent in the campaign was off the books.

Campaign finance summaries of attorney general and secretary of state campaigns from 2002, 2006 and 2010 are shown in Appendix C.

## Ignoring the Blunt Instrument of Michigan Campaigns

As electioneering television advertisements have become the blunt instrument of choice in Michigan political campaigns, the Department of State has relied on Supreme Court jurisprudence of the bygone century to steadfastly ignore them. In a position expressed in an interpretive statement issued to Robert LaBrant of the Michigan Chamber of Commerce on April 20, 2004, the Department stated that it does not have the authority to regulate issue ads. It said, it "...must apply the express advocacy standard to avoid constitutional problems,"<sup>8</sup> associated with the definition of an expenditure in the Michigan Campaign Finance Act (MCFA).

The MCFA defines an expenditure as a "[A] payment, donation, loan, or promise of payment of money or anything of ascertainable monetary value for goods, material, services, or facilities in assistance of, or in opposition to, the nomination

or election of a candidate, or the qualification, passage or defeat of a ballot question. "The MCFA makes an exclusion in the definition of an expenditure for "...communication on a subject or issue if the communication does not support or oppose a ballot question or candidate by name or clear inference."<sup>9</sup>

To give an example of what this means in practice, consider two examples of advertisements from the 2008 Michigan Supreme Court campaign. The Michigan Republican Party ran an ad that began by saying, "Newspapers call Diane Hathaway unqualified for the Supreme Court."<sup>10</sup> The Michigan Democratic Party ran ads that said, "Taylor was voted the worst judge on the state Supreme Court."<sup>11</sup> In the view of the Department of State, neither advertisement carried clear inference of support or opposition of a candidate. There was no reporting of either expenditure, nor

reporting by either political party of whose money was used to pay for those ads.

The Department of State's interpretation that clings to the presence of 'magic words' from *Buckley* to define a campaign expenditure ignores the pivotal 2007 U.S. Supreme Court case of *Federal Election Commission (FEC) v. Wisconsin Right to Life (WRTL)*.<sup>12</sup> That case, which was developed to challenge the McCain-Feingold ban against corporate spending on advertisements naming a federal candidate in the weeks immediately preceding an election, also had the effect of recognizing that there is a functional equivalent of express advocacy. The U.S. Supreme Court ruled that there can be advertising that names a political candidate that is authentic issue advocacy and not a back-door campaign ad. The court also acknowledged that an authentic campaign ad doesn't have to have 'magic words.'

In reaching its decision in *FEC v WRTL*, the U.S. Supreme Court considered what constitutes genuine issue advocacy. They asked: Is there a genuine policy matter at stake? Is the advertisement an authentic effort to mobilize grassroots lobbying of a candidate who can affect the policy matter? Is the advertisement an attempt to characterize the candidate's suitability to hold office? In the case at hand, the court said that the answer to the first two

questions was, 'yes,' and the answer to the third question was, 'no.' That made clear that the advertisement was authentic issue advocacy.<sup>13</sup>

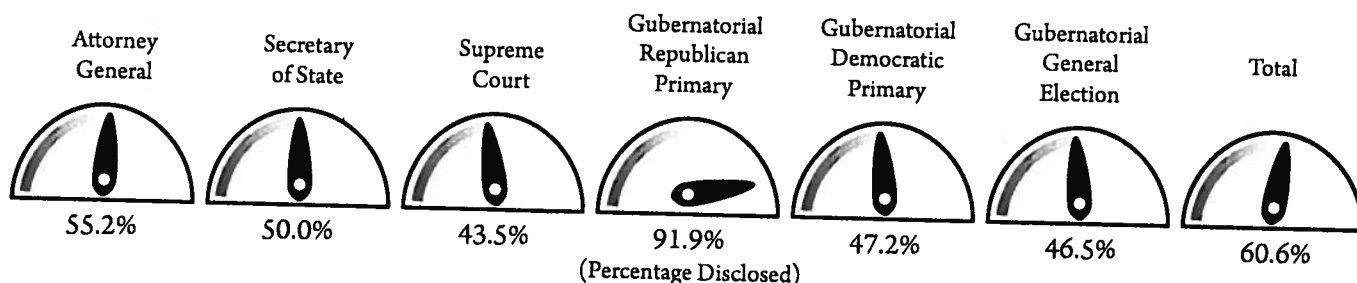
Returning to the previously cited examples from the 2008 Michigan Supreme Court campaign, those advertisements fail the test of authentic issue advocacy on all counts. In Michigan, judges are not lobbyable officials, and the ads most certainly set out to define the candidates'

suitability for office. The Department of State's slavish reliance on *Buckley's* magic words of express advocacy as a standard to determine what is, or, is not, a campaign expenditure, creates an enormous failure in the system of campaign finance accountability. U.S. Supreme Court campaign finance jurisprudence has moved forward in the direction of realism. The Michigan Department of State is stuck in the last century.

## The Cost of Willful Ignorance

Figure 2.

Dashboard of Campaign Finance Accountability, 2010



The cost to Michigan voters of ignoring candidate-focused advertising that doesn't include 'magic words' is represented in Figure 2, the Dashboard of Campaign Finance Accountability, 2010. Overall, just 61 percent of campaign spending for statewide offices was disclosed in 2010,

and that average is heavily weighted by the Republican gubernatorial primary that included disclosure of \$7 million from just two entities: \$6 million in self-funding from Rick Snyder and \$1 million in public campaign funds. If the Republican gubernatorial primary is set aside, less than

half the spending in statewide campaigns in 2010 was disclosed. The Dashboard of Campaign Finance Accountability clearly shows a civic culture that has sunk to a disgraceful level of ignorance.

Table 3.

Statewide Offices' Campaign Finance Summaries, 2010

	Attorney General	Secretary of State	Supreme Court	Gubernatorial Republican Primary	Gubernatorial Democratic Primary	Gubernatorial General Election	Total
Candidate Committees	\$2,935,092	\$1,799,767	\$2,351,329	\$15,504,951	\$2,593,108	\$6,556,423	\$31,740,670
Independent Expenditures	\$209,381	\$15,945	\$2,485,885	\$390,841	\$	\$298,568	\$3,400,620
Electioneering TV Ads	\$2,550,000	\$1,815,000	\$6,295,000	\$1,403,000	\$2,900,000	\$7,900,000	\$22,863,000
Total	\$5,694,473	\$3,630,712	\$11,132,214	\$17,298,792	\$5,493,108	\$14,754,991	\$58,004,290

Sources: MI Dept of State, MCFN analysis of broadcasters' public files

# A Simple Fix to Restore Integrity

Repairing Michigan's conspicuously failing system of campaign accountability is conceptually simple. The definition of an expenditure in the Michigan Campaign Finance Act must be amended to include electioneering communications. Electioneering communications should be defined to include any broadcast, cable, Internet or telephonic communication that features the name or image of a candidate for state or local office within 60 days of an election involving that candidate. Any committee or corporation that sponsors electioneering communications must disclose the donors whose funds the sponsor is aggregating to pay for its communications. Any committee or corporation that is a contributor to a sponsor of electioneering communications, or a contributor to a contributor, must, in turn, report its donors. No allowance can be given for the "Russian doll" strategy of hiding donors inside shells.

Would this solution have constitutional problems? Absolutely not. The 2010 case of *Citizens United v. Federal Election Commission*<sup>14</sup> established unequivocally

that the Congress, a state legislature or, in a ballot initiative state, the people of a state may require disclosure of donors, whether the communication is express advocacy, the functional equivalent of express advocacy or issue advocacy. The Supreme Court recognized that citizens have an interest in knowing whose money is behind all such communications.

Is political accountability a threat to freedom of association? This is a desperate straw that the opponents of political accountability are grasping. They cite the 1958 case of *NAACP v. Alabama*<sup>15</sup> to attempt to justify anonymity for the masters of the campaign finance universe. This argument is clear indication that contemporary politics has no shame. To compare a case where anonymity was needed to protect lives when civil rights workers were being lynched and murdered with campaign spenders' desire to wipe their fingerprints off their expenditures is pathetic, cowardly and entirely inappropriate.

The challenge to achieving transparency and accountability for campaign spending

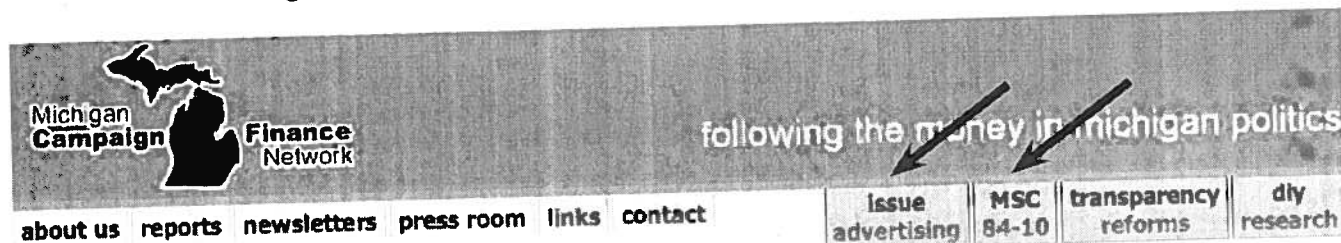
is not a matter of ambiguous voters' values. Officeholders know that citizens want campaign transparency. A poll conducted for Inside Michigan Politics by Marketing Resource Group in March 2011 found that 81 percent of Michigan voters favor full disclosure of all electioneering spending and 12 percent oppose disclosure.<sup>16</sup> A 2009 poll by Denno-Noor Research commissioned by the Michigan Campaign Finance Network asked voters about the specific case of electioneering disclosure in Supreme Court campaigns and found that 96 percent favor disclosure and only 3 percent oppose it.<sup>17</sup> Transparency and accountability are conservative values and they are progressive values. There is no controversy.

The challenge is political courage. Officeholders are caught between voters' values and big-money donors' desire for anonymity. Will elected officials of the term limits era stand with citizens against the interest groups who pay their way to the big dance in Lansing? So far, the answer to that \$70 million question is, 'No.' Now, the question is, what will the citizens do about it?

## View Examples of Unreported Campaign Advertisements

The Michigan Campaign Finance Network has compiled a small collection of candidate-focused issue ads, so you can see examples of campaign advertisements that were never reported to the Michigan Department of State.

Go to [www.mcfn.org](http://www.mcfn.org)





# Endnotes

- 1 *Buckley v. Valeo*, 424 U.S. 1, 44 n.52 (1976)
- 2 Gongwer News Service, Volume 50, Report 15, Article 6, 1/21/2011
- 3 Brandeis, Louis D., *Other People's Money—And How the Bankers Use It* (1914), Chapter V, par. 1. The famous saying is quoted here as it is most often used. In fact, the original text read “Sunlight is said to be the best of disinfectants.”
- 4 *Caperton v. Massey Coal Company*, 129 S.Ct. at 2264
- 5 The committee Citizens for Judicial Reform was registered at a nonexistent address with an untraceable treasurer.
- 6 Massey CEO Don Blankenship provided \$3 million to an independent committee called And for the Sake of the Children, which was the main advertising entity in a campaign that resulted in the election of Brent Benjamin to the West Virginia Supreme Court. Benjamin subsequently refused to recuse himself from the Caperton suit and cast the deciding vote in reversing a \$50 million damage judgment against Massey.
- 7 Michigan Public Radio transcript provided by Rick Pluta.
- 8 [http://www.michigan.gov/documents/2004\\_126239\\_7.pdf](http://www.michigan.gov/documents/2004_126239_7.pdf)
- 9 Michigan Compiled Laws 169.206
- 10 See [http://www.mcfn.org/MSC84\\_10.php](http://www.mcfn.org/MSC84_10.php), “Dangerous Rulings”
- 11 See [http://www.mcfn.org/MSC84\\_10.php](http://www.mcfn.org/MSC84_10.php), “The Sleeping Judge”
- 12 *Federal Election Commission v. Wisconsin Right to Life*, 551 U.S. 449 (2007)
- 13 *FEC v. WRTL*, 551 U.S. at 470
- 14 *Citizens United v. Federal Election Commission*, 130 S. Ct. 876 (2010)
- 15 *NAACP v. Alabama*, 357 U.S. 449 (1958)
- 16 *Inside Michigan Politics*, Vol. XIII, No. 11. March 28, 2011
- 17 Unpublished poll conducted March 9-12, 2009. 600 sample. Margin or error: plus/minus 4%.

## Appendix A.

## Summaries of Michigan Supreme Court Campaigns, 1984 - 2010

2010					
Candidate	Receipts	Independent Spenders	Amount	Electioneering Television	Amount
Davis, Alton (I)	\$988,187	MI Democratic Party	\$106,034	MI Republican Party	\$2,760,000
Kelly, Mary Beth	418,262	MI Republican Party	1,919,315	Law Enforcement Alliance of America	930,000
Morris, Denise Langford	101,626	MI Assn of Realtors	450,000	MI Democratic Party	2,450,000
Roddis, Bob	-	RTL of MI	10,536	21 Century Leadership Fund	155,000
Young Jr., Robert P.	843,254	Total	\$2,485,885	Total	\$6,295,000
Total	\$2,351,329	Source: MI Dept of State		Source: MCFN analysis of broadcasters' public files	
Source: MI Dept of State					
2008					
Candidate	Receipts	Independent Spenders	Amount	Electioneering Television	Amount
Hathaway, Diane Marie	\$752,736	MI Democratic Party	\$522,203	MI Democratic Party	\$1,432,000
Roddis, Robert	-	MI Republican Party	264,797	MI Chamber of Commerce	1,671,000
Taylor, Clifford W.	1,937,759	Great Lakes Educ Proj	225,000	MI Republican Party	701,000
Total	\$2,690,495	Total	\$1,012,000	Total	\$3,804,000
Source: MI Dept of State		Source: MI Dept of State		Source: MCFN analysis of broadcasters' public files	
2006					
Candidate	Receipts	Independent Spenders	Amount	Electioneering Television	Amount
Beckering, Jane	\$61,269	Republican County Cmtes	\$1,334	MI Chamber of Commerce	\$844,500
Cavanagh, Michael F.	316,799	Democratic County Cmtes	1,218	Source: MCFN analysis of broadcasters' public files	
Corrigan, Maura D.	679,286	RTL of MI	2,671		
Morgan, Kerry L.	-	Total	\$5,223		
Shulman, Marc	29,989	Source: MI Dept of State			
Total	\$1,087,343				
Source: MI Dept of State					
2004					
Candidate	Receipts	Independent Spenders	Amount	Electioneering Television	Amount
Kelly, Marilyn	\$728,800	MI Democratic Party	\$36,862	MI Chamber of Commerce	\$1,377,000
Markman, Stephen J	721,978	Geoffrey Fieger (CJR)	440,000	Source: MCFN analysis of broadcasters' public files	
Schwartz, Leonard	2,847	MI Republican Party	177,032		
Thomas, Deborah	68,374	Republican County Cmtes	1616		
Zahra, Brian	22,279	RTL of MI	39,190		
Total	\$1,544,278	Total	\$694,700		
Source: MI Dept of State		Source: MI Dept of State			
2002					
Candidate	Receipts	Independent Spenders	Amount	Electioneering Television	Amount
Brennan, J. Martin	\$11,549	MI Democratic Party	\$15,594	MI Chamber of Commerce	\$1,020,000
Donahue, Michael	-	MI Republican Party	6,480	Source: MCFN analysis of broadcasters' public files	
Drake, Maggie	44,025	Republican County Cmtes	424		
Hadden, Donnelly	5,915	RTL of MI	4,910		
Weaver, Elizabeth A.	280,440	Total	\$27,408		
Young, Robert P., Jr.	622,413	Source: MI Dept of State			
Yullie, Bruce	-				
Total	\$964,342				
Source: MI Dept of State					
2000					
Candidate	Receipts	Independent Spenders	Amount	Electioneering Television	Amount
Robinson, Marietta S.	\$1,195,683	MI Democratic Party	\$366	MI Chamber of Commerce	\$3,400,000
Roddis, Robert	-	MI Republican Party	1,350,385	MI Democratic Party	3,400,000
Taylor, Clifford W.	1,332,975	Ann Arbor PAC	208,200	MI Republican Party	700,000
Markman, Stephen J.	1,244,502	Dem. Justice Caucus	28,878	Total	\$7,500,000
Raaflaub, David	-	Total	\$1,587,829	Source: MCFN television advertising study	
Thomas, Edward M.	1,008,420	Source: MI Dept of State			
Fitzgerald, E. Thomas	750,539				
Kaufman, Jerry	-				
Young, Robert P., Jr.	1,292,192				
Total	\$6,824,311				
Source: MI Dept of State					
1998					
Candidate	Receipts	Independent Spenders	Amount		
Abel, Mathew	\$-	MI Democratic Party	\$33,036		
Borman, Susan D.	663,183	MI Republican Party	43,924		
Cavanagh, Michael F.	255,073	Total	\$76,960		
Collins, Jeffrey G.	202,163	Source: MI Dept of State			
Corrigan, Maura D.	1,033,339				
Kaufman, Jerry J.	-				
Raaflaub, David H.	-				
Taylor, Clifford W.	986,566				
Youngblood, Carol F.	592,297				
Total	\$3,732,621				
Source: MI Dept of State					

Election winners in bold type.

## Appendix A.

## Summaries of Michigan Supreme Court Campaigns, 1984 - 2010

1996

Candidate	Receipts	Independent Spenders	Amount
<b>Brickley, James H.</b>	\$228,977	MI Democratic Party	\$387,785
Cooper, Jessica	148,931	MI Republican Party	551,273
Gage, Hilda R.	723,570	Justice for MI Citizens	103,788
Kaufman, Jerry J.	-	MI State Victory Cmte	150,386
<b>Kely, Marilyn</b>	553,274	Total	\$1,193,232
Murphy, William B.	699,354	Source: MI Dept of State	
Raaflaub, David H.	-		
Total	\$2,354,106		
Source: MI Dept of State			

1994

Candidate	Receipts	Independent Spenders	Amount
Griffin, Richard A.	\$198,178	MI Democratic Party	\$50,668
Killeen, George	63,940	Source: MI Dept of State	
<b>Mallett, Conrad L., Jr.</b>	374,101		
Shelton, Donald E.	519,901		
<b>Weaver, Elizabeth A.</b>	196,995		
Total	\$1,353,115		
Source: MI Dept of State			

1992

1990

1988

Candidate	Receipts	Candidate	Receipts	Candidate	Receipts
Kelly, Marilyn	\$108,949	<b>Boyle, Patricia J.</b>	\$430,388	<b>Brickley, James H.</b>	\$120,492
<b>Riley, Dorothy Comstock</b>	241,038	Cavanagh, Michael F.	263,926	Johnston, Richard	3,025
Roddis, Robert W.	-	Durant, Clark	314,842	Kaufman, Jerry J.	1,500
Kaufman, Jerry J.	-	Hahn, Charles	-	<b>Levin, Charles L.</b>	82,664
<b>Mallett, Conrad L., Jr.</b>	451,776	Hughes, Judy M.	15,890	Stemplen, Marvin	87,395
Talbot Michael	290,162	Kaufman, Jerry J.	-	Warbler, Donald	-
Total	\$1,091,925	Total	\$1,025,046	Total	\$295,076
Source: MI Dept of State		Source: MI Dept of State		Source: MI Dept of State	

1986

1984

Candidate	Receipts	Candidate	Receipts
<b>Archer, Dennis W.</b>	\$450,817	<b>Boyle, Patricia J.</b>	\$347,634
Carras, James J.	-	<b>Brickley, James H.</b>	145,830
Clay, Henry	-	Griffin, Robert P.	209,542
Collison, Jeffrey C.	-	Hathaway, James A.	121,407
Ferency, Zoltan	19,397	Kavanagh, Thomas Giles	109,542
Ferrara, Andrea J.	-	Raaflaub, David H.	-
Fitzgerald, E. Thomas	17,193	<b>Riley, Dorothy Comstock</b>	247,366
<b>Griffin, Robert P.</b>	320,007	Roddis, Robert W.	-
Howarth, E. Leonard	-	Total	\$1,181,321
Kallman, James T.	74,323	Source: MI Dept of State	
Kaufman, Jerry J.	945		
Kelley, James J.	16,875		
Korn, Stephen P.	-		
Mackenzie, Barbara B.	15,151		
Marutiak, Michael Joseph	-		
McDonough, John J.	-		
Mikesell, Willard L.	575		
O'Hara, John P., Jr.	1,050		
Paunovich, Melvin L.	-		
Robb, Dean	488,600		
Simon, Caleb M.	-		
Simon, Michael F.	-		
Stelt, James R.	-		
Weiss, Robert E.	68,717		
Total	\$1,473,650		
Source: MI Dept of State			

Election winners in bold type.

## Appendix B.

## Summaries of Michigan Gubernatorial Campaigns, 2002 - 2010

2010 General					
Candidate	Receipts	Independent Spenders	Amount	Electioneering Television	Amount
Bemero, Virg	\$2,215,193	MI Republican Party	\$241,195	Republican Governors Assn	\$3,600,000
Snyder, Rick	4,341,230	MI Democratic Party	17,949	MI Democratic Party	\$4,300,000
Total	\$6,556,423	Working America	39,424	Total	\$7,900,000
Source: MI Dept of State		Total	\$298,568	Source: MCFN analysis of broadcasters' public files	
		Source: MI Dept of State			
2010 Republican Primary					
Candidate	Receipts	Independent Spenders	Amount	Electioneering Television	Amount
Bouchard, Mike	\$1,420,260	RTL MI PAC	\$75,241	Americans for Job Security	\$755,000
Cox, Mike	3,641,486	MI Businesses United	315,600	Fdn. for Secure & Prosperous Am.	\$215,000
George, Tom	472,802	Total	\$390,841	MI Chamber of Commerce	\$268,000
Hoekstra, Pete	1,927,288	Source: MI Dept of State		MI Taxpayers Alert	\$165,000
Snyder, Rick	8,043,115			Total	\$1,403,000
Total	\$15,504,951			Source: MCFN analysis of broadcasters' public files	
Source: MI Dept of State					
2010 Democratic Primary					
Candidate	Receipts	Independent Spenders	Amount	Electioneering Television	Amount
Bemero, Virg	\$1,166,656			Genesee County Democratic Party	\$2,025,000
Dillon, Andy	1,426,452			Advance Michigan Now	\$445,000
Total	\$ 2,593,108			Northern Michigan Education Fund	\$430,000
Source: MI Dept of State				Total	\$2,900,000
				Source: MCFN analysis of broadcasters' public files	
2006 Primary & General					
Candidate	Receipts	Independent Spenders	Amount	Electioneering Television	Amount
DeVos, Dick	\$42,550,955	MI Democratic Party	\$319,687	MI Democratic Party	\$12,840,000
Granholm, Jennifer	15,718,935	Coalition for Progress	1,655,543	MI Republican Party	\$1,300,000
Total	\$58,269,890	Emily's List	965,390	Republican Governors Assn	\$2,620,000
Source: MI Dept of State		America Votes	5,164	MI Chamber of Commerce	\$1,000,000
		MI Republican Party	2,980	Coalition for Traditional Values	\$570,000
		National RTL - MI	130,986	Total	\$18,330,000
		RTL MI	9,414	Source: MCFN analysis of broadcasters' public files	
		Total	\$3,089,164		
		Source: MI Dept of State			
2002 General Election					
Candidate	Receipts	Independent Spenders	Amount	Electioneering Television	Amount
Granholm, Jennifer	\$2,494,734	MI Republican Party	\$3,494,542	MI Democratic Party	\$7,200,000
Posthumus, Dick	2,223,115	RTL MI	237,955	MI Republican Party	\$1,100,000
Total	\$4,717,849	Safari Club Int'l	14,897	MI Chamber of Commerce	\$1,100,000
Source: MI Dept of State		Nat'l Rifle Assn	3,998	Total	\$9,400,000
		Citizens for Trad. Values	8,501	Source: MCFN analysis of broadcasters' public files	
		MI Democratic Party	203,799		
		Planned Parenthood	6,895		
		MI Education Assn	12,238		
		Citizens for Public Educ.	23,023		
		Total	\$4,005,848		
		Source: MI Dept of State			
2002 Republican Primary					
Candidate	Receipts	Independent Spenders	Amount	Electioneering Television	Amount
Posthumus, Dick	\$2,722,154				
Schwarz, Joe	518,657				
Total	\$3,240,811				
Source: MI Dept of State					
2002 Democratic Primary					
Candidate	Receipts	Independent Spenders	Amount	Electioneering Television	Amount
Blanchard, Jim	\$2,180,527	Citizens for Responsible Leadership	\$1,220,362	St. Clair County Democratic Party	\$1,850,000
Bonior, David	2,258,129	10th Dist Dem Cmte	3,678	Source: MCFN analysis of broadcasters' public files	
Granholm, Jennifer	7,081,586	Total	\$1,224,040		
Total	\$11,520,242	Source: MI Dept of State			
Source: MI Dept of State					

Election winners in bold type.

## Appendix C.

## Summaries of Michigan Attorney General and Secretary of State Campaigns, 2002 - 2010

**2010 Attorney General**

Candidate	Receipts	Independent Spenders	Amount	Electionering Television	Amount
Leyton, David	\$714,080	MI Republican Party	\$200,580	MI Democratic Party	\$450,000
Schuetz, Bill	2,221,012	RTL MI	5,300	MI Republican Party	800,000
Total	\$2,935,092	MI Democratic Party	1,381	MI Advocacy Trust	1,000,000
Source: MI Dept of State		Coalition for Progress	2,120	Law Enforcement Alliance Am	300,000
		Total	\$209,381	Total	\$2,550,000
		Source: MI Dept of State		Source: MCFW analysis of broadcasters' public files	

**2010 Secretary of State**

Candidate	Receipts	Independent Spenders	Amount	Electionering Television	Amount
Benson, Jocelyn	\$1,084,817	MI Republican Party	\$9,262	MI Democratic Party	\$465,000
Johnson, Ruth	714,950	RTL MI	5,302	MI Republican Party	1,350,000
Total	\$1,799,767	MI Democratic Party	1,381	Total	\$1,815,000
Source: MI Dept of State		Total	\$15,945	Source: MCFW analysis of broadcasters' public files	
		Source: MI Dept of State			

**2006 Attorney General**

Candidate	Receipts	Independent Spenders	Amount	Electionering Television	Amount
Cox, Mike	\$1,938,740	MI Republican Party	\$743	MI Chamber of Commerce	\$500,000
Williams, Amos	671,083	MI Democratic Party	28,206	Source: MCFW analysis of broadcasters' public files	
Total	\$2,609,823	Total	\$28,949		
Source: MI Dept of State		Source: MI Dept of State			

**2006 Secretary of State**

Candidate	Receipts	Independent Spenders	Amount	Electionering Television	Amount
Land, Terri Lynn	\$1,218,193	Republican Party Cmtes	\$1,697		
Sabaugh, Carmella	192,528	MI Democratic Party	41,737		
Total	\$1,410,721	Secretary of State Project	4,647		
Source: MI Dept of State		Total	\$48,081		
		Source: MI Dept of State			

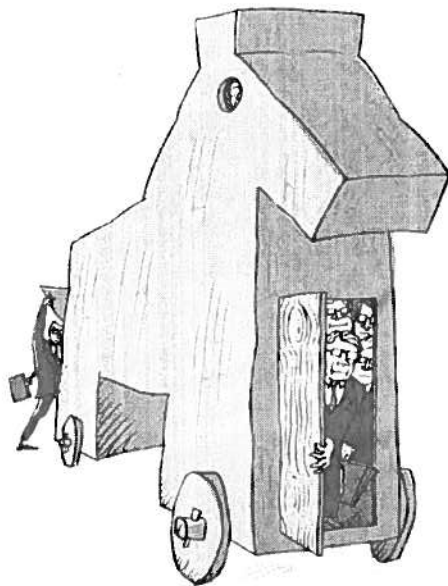
**2002 Attorney General**

Candidate	Receipts	Independent Spenders	Amount	Electionering Television	Amount
Cox, Mike	\$915,042	MI Republican Party	\$3,289	MI Chamber of Commerce	\$485,000
Peters, Gary	1,136,366	RTL - MI	2,296	MI Democratic Party	500,000
Total	\$2,051,408	Great Lakes Educ. Project	63,419	Total	\$985,000
Source: MI Dept of State		Nat'l Rifle Ass.	2,371	Source: MCFW analysis of broadcasters' public files	
		MI Democratic Party	7,797		
		Total	\$79,172		
		Source: MI Dept of State			

**2002 Secretary of State**

Candidate	Receipts	Independent Spenders	Amount	Electionering Television	Amount
Hollowell, Butch	\$696,040	West MI Leadership Caucus	\$359,880		
Land, Terri Lynn	2,092,829	MI Republican Party	2,513		
Total	\$2,788,869	RTL - MI	2,296		
Source: MI Dept of State		MI Democratic Party	7,797		
		Total	\$372,486		
		Source: MI Dept of State			

Election winners in bold type.



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“Requiring people to stand up in public for their political acts  
fosters civic courage, without which democracy is doomed.”

Justice Antonin Scalia, *Doe v. Reed* (2010)

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